

REMARKS

In response to the Office Action dated October 9, 2007, Applicant respectfully requests reconsideration. Applicant first thanks the Examiner for the withdrawal of the previous rejection under 35 U.S.C. § 101. Claims 1-12, 14, 16-20, and 22-25 are pending in the application, of which claims 1, 9, 14, and 20 are independent. The Office Action¹ rejected claims 1-12, 14, 16-20, and 22-25 under 35 U.S.C. § 102 as being anticipated by Reuter et al. (U.S. Pub No. 2002/0019920), hereinafter "Reuter". By this amendment, Applicant amends claims 1, 14, and 20 to further clarify Applicant's invention. No new matter has been introduced by these amendments.

The rejection under 35 U.S.C. § 102 should be withdrawn because independent claims 1, 9, 14, and 20 patentably distinguish over Reuter. To properly establish that Reuter anticipates Applicant's claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Reuter, however, does not disclose each and every element of independent claims 1, 9, 14, and 20. For example, Reuter does not disclose, "responsive to receiving a quiescence instruction by the state manager, halting long term operations underway at the time the quiescence instruction is received, and completing short term operations comprising operations that are other

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

than long term operations and that are underway at the time the quiescence instruction is received,” as required by claim 1.

1. Reuter does not distinguish between long term and short term operations.

Applicant’s claim 1 requires that long term operations underway at the time the quiescence instruction is received are halted, and that short term operations that are underway at the time the quiescence instruction is received are completed. See Applicant’s claim 1. Applicant’s paragraph 0169 gives examples of long term operations as “scrubbing, rebuilding, etc.” Reuter nowhere addresses how such operations would be treated in response to a “quiesce command,” which the Office Action analogizes with Applicant’s “quiescence instruction.” See Office Action at 3.

Even if Reuter’s “quiesce command” and Applicant’s “quiescence instruction” were analogous, Reuter merely discloses completing *all I/O operations already in progress* with the quiesce command and queueing or delaying host I/O operations. See Reuter at para. 64 (“The quiesce command causes all host 140 I/O operations issued. . . to be queued and delayed”) and para. 65 (“With the quiesce command, the mapping agent 110 does not return a response. . . until all I/O operations that were already in progress have completed.”). Reuter, therefore, treats *all I/O operations underway at the time the quiesce command* is received in the same way – allowing them to complete. See Reuter at para. 65. Applicant’s claim 1 requires distinguishing between long term and short term operations, both of which are underway at the time the quiescence instruction is received. For at least this reason, Applicant’s claim 1 is patentably distinct from Reuter.

Claims 9, 14, and 20, while of different scope, contain similar elements distinguishing between long term and short term operations underway at the time a quiescence instruction is received. For at least the same reason as stated herein with respect to claim 1, claims 9, 14, and 20 are allowable. The rejections of claims 2-8, 10-12, 16-19, and 22-25 under 35 U.S.C. § 102 should also be withdrawn for at least the same reasons since they depend from claims 1, 9, 14, and 20.

2. Reuter does not halt long term operations and complete short term operations in response to receiving the quiescence instruction.

Reuter does not disclose “responsive to receiving the quiescence instruction, halting long term operations underway at the time the quiescence instruction is received, and completing short term operations. . . that are underway at the time the quiescence instruction is received” as required by Applicant’s claim 1. As disclosing this element, the Office Action cites to Reuter at paragraphs 32, 37, and 38, where Reuter discloses the stopping or preventing of I/O operations. See Office Action at 3; See also Reuter at para. 32 (“causes I/O operations to stop”), para. 37 (“preventing the completion of the requested I/O operation”), para. 38 (“the agent does not attempt to carry out the I/O operation”). However, nowhere does Reuter disclose that the stopping or preventing of I/O operations is *in response to the quiesce command*, which is analogized by the Office Action to Applicant’s “quiescence instruction.” See Office Action at 3. Moreover, nowhere does Reuter disclose that, *in response to receiving the quiesce command*, short term operations underway should be completed especially since, as explained above, Reuter does not distinguish between long term and short term operations..

Claims 9, 14, and 20, while of different scope, contain similar elements wherein the halting of long term operations and the completion of short term operations is in response to a quiescence instruction. For at least the same reason as stated herein with respect to claim 1, claims 9, 14, and 20 are allowable. The rejections of claims 2-8, 10-12, 16-19, and 22-25 under 35 U.S.C. § 102 should also be withdrawn for at least the same reasons since they depend from claims 1, 9, 14, and 20.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request the reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: January 9, 2008

By: Maura K. Moran
Maura K. Moran
Reg. No. 31,859